

## **EXHIBIT K**

NASD DISPUTE RESOLUTION, INC.

ARBITRATION NO: 06-05183

August 6, 2007

Tapes 1 - 3

LINDA HALE,

vs.

OPTIONSXPRESS, INC.

APPEARANCES BY:

On behalf of the Claimants:

Neil B. Solomon, Esq.  
(Neil B. Solomon, P.A.)

On behalf of the Respondent:

Hillary Victor, Esq.

### Panel Members:

Kevin S. Doty, Esq., Chairperson  
Allen Robin, Public Arbitrator  
Bernard A. Taub, Industry Arbitrator

G & L TRANSCRIPTION, INC.  
4801 NORTHWEST 27<sup>TH</sup> AVENUE  
BOCA RATON, FLORIDA 33434

(561) 998-1981

1                   suitability. Well, there are two different  
2                   suitability obligations when you have options as  
3                   opposed to stock and they're in the rules. NASD Rule  
4                   2860(b) 16 which was the top -- this is the NASD up  
5                   here and this is OptionsXpress.

6                   Now that rule, the NASD rule talks about  
7                   approving or disapproving customers before they trade  
8                   options based on their financial situation,  
9                   experience, and other things. An option firm before  
10                  they allow anybody to any kind of options or the  
11                  protocol buying calls, any type of options trader had  
12                  a gatekeeper duty to say, hey wait a minute, this  
13                  type of options trading is the only type we allow  
14                  for, if any. So that's the suitability obligation  
15                  before we even get to whether there were any  
16                  recommendations. There were not recommendations  
17                  here. We are not here saying anybody from  
18                  OptionsXpress recommended that Ms. Hale buy options  
19                  in her IRA. That's not the duty what we're talking  
20                  about because options are so much more risky than  
21                  stocks. We're talking about a suitability obligation  
22                  before anybody -- trade out.

23                  In fact, OptionsXpress in their own compliance  
24                  manual, at least two prior versions to the current  
25                  one, talks about suitability with respect to options

1           in two different places. One place refers to  
2           recommendations, the other place talks about the  
3           criteria for opening an account. So they even  
4           acknowledge in their own compliance manuals two  
5           different suitability obligations when it comes to  
6           options. I want to make that clear to the panel. We  
7           don't want to get confused.

8           The recommendation suitability obligation is  
9           2860(b) 19 as opposed to (b) 16 that has nothing to  
10          do with this case because we stipulate on the record  
11          OptionsXpress made no specific recommendations from  
12          any specific transaction. What OptionsXpress didn't  
13          know is they authorized Ms. Hale to buy puts and  
14          calls after OptionsXpress reviewed her suitability  
15          information, financial background, and experience,  
16          and said, okay, you can buy options in your IRA even  
17          though it was all the money she had in the world.  
18          Here specifically OptionsXpress is broadcasting to  
19          the general public promising and advertising on their  
20          website that they will do a suitability, their words  
21          not mine, analysis, and after such a analysis they  
22          will decide whether to allow somebody to do prudent  
23          trading of options in their IRA. That is what they  
24          broadcast to the general public on their website.  
25          Advertising -- website is considered advertising,